

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JOSEPH C. SISNEROS,)	Civil No. 14cv891 GPC(RBB)
)	
Plaintiff,)	ORDER DENYING PLAINTIFF'S
)	MOTION TO COMPEL DISCOVERY
v.)	[ECF NO. 27]
)	
SERGEANT BROWN, et al.,)	
)	
Defendants.)	
)	

Plaintiff Joseph Sisneros, a state prisoner proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983, alleging that prison officials acted with deliberate indifference to his safety in violation of the Eighth Amendment when they placed him in a cell with another inmate, Jesus Gomez, who viciously attacked Plaintiff. (Compl. 3, ECF No. 1.) Defendants Brown and Mendez filed a pre-answer motion for summary judgment for failure to exhaust administrative remedies pursuant to Federal Rule of Civil Procedure 56 and Albino v. Baca, 747 F.3d 1162 (9th Cir. 2014) (en banc) [ECF No. 9]. Defendants Davis and Kritzman filed a motion to dismiss [ECF No. 10]. Plaintiff has opposed both motions [ECF Nos. 14, 18, 20, 22, 29], and Defendants filed a combined


1 reply [ECF No. 16]. The Court has not yet issued a ruling on
2 Defendants' motions.

3 On April 8, 2015, the Court denied Plaintiff's Motion to
4 Compel Discovery [ECF No. 24], explaining that Plaintiff's request
5 was premature under the Ninth Circuit case of Albino v. Baca, 747
6 F.3d at 1170. (Order Denying Pl.'s Mot. Compel Discovery 2, ECF
7 No. 25.) The Court explained that the discovery request was
8 unrelated to the issue of administrative exhaustion. (Id.)

9 The Court has received another document from Plaintiff
10 entitled "Motion to Compel Discovery," which was filed nunc pro
11 tunc to April 13, 2015 [ECF No. 27]. In this Motion, Sisneros
12 again seeks information that goes to the merits of his claim, such
13 as his alleged attacker's medical and housing history. (Pl.'s Mot.
14 Compel Discovery 1-2, ECF No. 27.) Because the Court has not yet
15 decided the issue of administrative exhaustion, discovery related
16 to the merits of the suit is not appropriate at this time. Albino,
17 747 F.3d at 1170. Thus, for the same reasons stated in the Court's
18 April 8, 2015 Order, Plaintiff's Motion to Compel Discovery [ECF
19 No. 27] is DENIED.

20 **IT IS SO ORDERED.**

21 Dated: May 11, 2015


Ruben B. Brooks
United States Magistrate Judge

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23 cc: Judge Curiel
24 All Parties of Record
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